DOCUMENT RESUME

ED 400 678 FL 024 005

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TITLE Using the Child's Testimony in Defending the Alleged Child Molester.
PUB DATE Mar 96
NOTE 19p.; Paper presented at the Annual Meeting of the American Association for Applied Linguistics (18th, Chicago, IL, March 23- 26, 1996). Contains explicit sexual language.
PUB TYPE Reports - Evaluative/Feasibility (142) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Behavior Patterns; *Child Language; Court Litigation; Interviews; Language Patterns; *Legal Problems; *Lying; *Persuasive Discourse; Questioning Techniques; *Sexual Abuse; Social Workers
IDENTIFIERS *Child Molesters; *Witnesses

ABSTRACT

Analysis of the transcript of a social worker's interview with a five-and-a-half-year-old girl allegedly sexually abused by a man focuses on how the interview was conducted and elements that suggest it should not be used as testimony. First, inconsistencies in the transcript that cast doubt on the child's reliability are noted, and the truth of the accusation is called into question. Second, flaws in the manner in which the interview was conducted, which resulted in an inaccurate account of the events of the case, are analyzed. Types of questions asked by the social worker and the presuppositions they entailed are then examined, and instances that do lend support to the child's charge of being sexually abused are discussed. It is concluded that information crucial to making a strong case against the alleged molester was not elicited, because clear answers were not received for several questions. The testimony remained unclear, confused, or conflicting. Reconstruction of the events according to the interview suggests that while something happened to the child, the language of her testimony did not prove beyond reasonable doubt that the accused was guilty of molestation. Salient excerpts of the interview transcript are appended. (MSE)

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ED 400 678

USING THE CHILD'S TESTIMONY IN DEFENDING THE ALLEGED CHILD MOLESTER

Paper Presented at the AAAL 1996 Conference in Chicago, IL
March 23-26, 1996

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USING THE CHILD'S TESTIMONY IN DEFENDING THE ALLEGED CHILD MOLESTER

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INTRODUCTION

1 The past two decades bears witness to the steady increase of reported instances of child sexual abuse. The question is how many of these reported cases are indeed real incidents of the crime. We hear about cases where one spouse accuses another of sexually abusing their child in order to prevent the accused spouse from getting custody. It is also conceivable that unscrupulous adults would subject a child to interrogation or a possible trial for financial gain. But what is most disturbing are recent findings that children themselves perpetrate false accusations.

2 Various explanations have been put forth to make clear why children lie. These include their high suggestibility, their shorter memory compared to adults, and their inability to recall details. Ceci and Bruck (1993b: 002) define *suggestibility* as "the degree to which children's encoding, storage, retrieval, and reporting of events can be influenced by a range of social and psychological factors". Studies on the suggestibility of children give conflicting results. Some show children to be more highly suggestible than adults while others show no difference in the suggestibility of subjects across ages. Others report that children are more suggestible when asked about an event which occurred long ago or an event which is not salient to them. However, the usual thinking is to consider the child's testimony as true, unless proven otherwise (Goleman 1993), for it seems unthinkable that innocent children would dream up sexual abuse charges on their own, much less describe the abuse in detail (Goodman 1984b).

3 The case I shall discuss here today involves a then five-and-a-half-year old girl whom I shall call Sally who was reportedly sexually abused by a man whom I shall call Mike . The data I worked with is a transcript of the interview conducted by a social worker whom I shall refer to as Terry. The interview, which lasted about twenty-seven minutes, took place in March 1988 in the Minneapolis Police Department.

4 My paper is divided into four parts. First, will I deal with inconsistencies in the transcript which cast doubt on Sally's reliability and question the truth of the accusation. Second, I will discuss flaws in the manner the interview was conducted which resulted in an inaccurate account of the events of the case. Third, I will analyze the type of questions Terry asked and the presuppositions they entailed. Finally, I will discuss instances that do lend support to Sally's charge of being sexually abused.

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INCONSISTENCIES IN SALLY'S TESTIMONY

Use of Terminology

5 The first instance of inconsistency in Sally's testimony is a *terminological issue*. In (81) through (91), Terry tries to elicit Sally's word for "this here that you go pee with" (81). Sally first pauses, shrugs her shoulders and then shakes her head "no" to indicate either that (a) she does not know what it is called, or (b) she does know but does not want to say the word. Later, we discover that Sally does have the word "puss" in her vocabulary (267).

6 However, in (619), she mixes up her terms and says "my penis", which Terry implicitly corrects (620). Previous to this confusion between "puss" versus "penis", there is also an instance where Sally uses "pener" (294) as she examines the anatomically correct dolls which were later brought in. Then, in (317), Sally produces an appropriate utterance but her pause and false start indicate sorting out the terms and their referents. These instances point to the fuzziness of the distinctions that Sally attempted to make between female and male sex organs.

Concept of Quantity

7 Another instance of inconsistency in Sally's testimony concerned the *issue of quantity*. Whenever her responses involved numerical figures, she becomes vague and imprecise, e.g., "four or three" (112,155), "about three or five" (140), "at least three or two times" (263), "well one second" (348), "That was the second time when that happened or the fourth" (362), "maybe once or twice" (524), "That must be the fifth or the sixth" (567), "about ten or uh nine times" (588), "it could be the fourth and the fifth" (570).

8 Also, Sally prefaces her numbers with terms denoting uncertainty, e.g., "or", "about", "at least", "well", "maybe", "that must be", "it could be", "uh", and sometimes accompanied by shrugs of the shoulder. This makes one wonder whether Sally is picking numbers at random.

Concept of Time

9 Sally is also unclear about her concept of time when Terry asks her about the first time that Mike allegedly made her perform fellatio (183-198). This suggests that (a) Sally just does not remember, or (b) remembers but does not want to tell or that (c) she may not have fully grasped the concept of time or quantities in general. The first hypothesis is supported by the results of studies on the accuracy of children's recall of past events. However, these results are inconclusive, for some findings also suggest that a highly salient and personally significant event involving the child and her/his body is often recalled with clarity and detail (Goodman 1984b). This, Sally does not exhibit.

Contradictory, Ambiguous and Vague Statements

10 There were also instances where Sally contradicts herself (146) "She [Carrie] got a lot of that stuff from Mike too" and then later on says that "Well, she she got barely anything from from him" (472-7). Thus, either Sally is deliberately lying or she is talking about two different "stuff" which Terry mistakenly interprets as the same thing. Nevertheless, the ambiguity persists.

11 Similarly, vagueness is also present when Sally is asked about "where it happened" (392-9). In this exchange, Sally begins by saying that "it" did not happen in any other place other than Mike's apartment. Then, she becomes more specific and says, "Sometimes in his bedroom" (396), and when pressed for other places in the house, like "the living room" (397-8), she comes up with "Sometimes in the bathroom too" (399), a question-answer sequence which may be considered an instance of suggestibility.

12 Sally again provides conflicting testimony when she claims in (56) that she is scared of no one and then says "I was scared of him [Mike]" in (237), which she quickly takes back in (240) and says "I was just scared", meaning, not of anybody in particular. She sticks to this "I'm not scared" version in (452) to (454). The wavering that typifies Sally's evasive responses again occurs when she is asked who she told about what happened. First, she claims that she did not tell anyone (547), but in the course of the interview, she finally says that she told her mom (564).

Faulty Memory

13 Finally, that the child may not have a clear memory for details is shown by how Sally missed mentioning that probably Mike's girlfriend also lived on the third floor (209-210) the first time she is asked about the people who lived in the daycare (115).

FLAWS IN TERRY'S INTERVIEW

Forensic Interview versus Therapeutic Interview

14 The social worker is faced with the task of separating the forensic interview to gather facts from the therapeutic interview. When these two types of interviews are mixed, it becomes difficult to assess the value of the child's testimony. Unfortunately, this is what seemed to have happened in this case.

15 The interview between Terry and Sally is clearly not the first that the latter has undergone, as shown by references to the anatomically correct dolls that Sally's mom was talking about (271-2) and Sally's previous encounter with a children's book which explained body parts (598-9).

Presuppositions

16 Terry's questions also contained presuppositions which clouded the issue. For instance, in (55) she asks the loaded question "Who are you afraid of?" which presupposes that Sally does indeed fear someone. Although Sally answers "no one", the question remains an example of suggestive questioning. And as numerous studies have illustrated, repeated questioning over time leads children to make up tales (Ceci & Bruck 1993b). Other interview questions that showed evidence of presupposition can be found in (213) So how did you go up to his place? This presupposes that Sally went up to Mike's place and the abuse occurred there.

17 Another loaded question occurs in (265) On this first time, though, he told you to keep it a secret, right? And then he asked you to take off your clothes. And then what did he do? What did he do after that? (A series of questions.) Here, Terry is reconstructing the event based on what she thinks happened, not on what Sally is saying. Note that the declarative between the two interrogatives in (265) embeds the statement as fact when Sally does not explicitly state that that was what transpired. The most obvious leading questions are those where Terry gives Sally a choice of answers, (128) Was he a big person or a younger person? (171) Was it another boy or girl? (318) Were you standing up? Or were you down, sitting down? Or were you lying down? (368) You were sitting down or lying down? (417) Was it before or after Halloween last year? (423) Before Halloween or after Halloween? This makes it convenient for Sally to just choose an answer instead of providing her own.

Interruptions

18 It was also apparent that Terry interrupted a lot. Although asking leading questions cannot be avoided when interviewing a young child, restraint must also be observed so that the interviewer is later not accused of putting ideas in the child's head or putting words in the child's mouth, or being too suggestive.

No Free Recall

19 Moreover, studies show that allowing children to freely recall an event results in a more accurate account rather than asking them a series of leading or yes-no questions (Ceci & Bruck 1993b). Goodman (1984a:15) cites Lipton (1977) and Loftus & Davies (1984) whose studies have shown that "leading questions increase the inaccuracies in both children's and adults' testimony". Unfortunately, Terry does not make use of the free recall strategy in the interview but relied mostly upon leading open-ended and yes-no questions.

Insufficient Briefing

20 In addition, Sally was not briefed that it was okay to answer "I don't know" or "I don't remember" if she does not know the answer to the question. Ceci and Bruck (1993b) note the importance of pointing this out to the child, for this decreases by 5% the chances of the child making up an answer to be a "good" conversation partner or to please the interviewer. Fortunately, Sally is not always swayed by Terry's leading questions. I shall go into this in the final part of my paper.

Pursuit of Only One Hypothesis

21 The presuppositions entailed by Terry's questions tie up with the observation that she was pursuing only one hypothesis. She was already convinced that abuse had occurred and her job was to elicit testimony to support her hypothesis. Her questions assumed that Mike was guilty. Ceci and Bruck (1993a) suggest that interviewers test at least one alternative plausible hypothesis about what happened instead of plunging head on towards proving the defendant's guilt through repeatedly asking the child suggestive or leading questions. Loftus (1993) echoes the same thing when she says that "people...have a tendency to search for evidence that confirms their hunches rather than search for evidence that disconfirms". This makes therapists and interviewers suspect. Finally, as MacFarlane and Krebs (1986) suggest, another person taking notes should have also been present in the room during the interview so that the interviewer can focus on only one task.

Insufficient Follow-Up

22 There was also an instance where it would have been appropriate for Terry to follow-up on Sally's statement "My friend got a lot of that stuff from uh, Mike too", but unfortunately, she did not (148-9) and put the question on hold. Other instances are when Sally says that she is sometimes afraid of monsters (58), and when she comments that "He [Mike?] even had curly hair. It was all like this. He looked just like this [the doll?]" (462-3). But Terry ignored this input again when it was important that she follow up on any topic that Sally introduced, for these topics were the ones that Sally considered important. Unfortunately, Terry pursued only those topics that she introduced herself.

Prompting in the Use of Anatomically Correct Dolls

23 The interview also showed how anatomically correct dolls figured in eliciting a child's testimony. The usefulness of these dolls has received conflicting responses, though. Some claim that the dolls "allow children to manipulate objects reminiscent of a critical event, thereby cueing recall and overcoming language and memory problems" and that they help the child overcome initial embarrassment (Ceci & Bruck 1993a:22, 1993b:0021). However, researchers also argue that the

unusual sight of dolls with exaggerated genitalia (so they are not anatomically correct after all!) incite children to play with the dolls' exposed sex organs and invent stories of molestation (MacFarlane & Krebs 1986; Ceci & Bruck 1993a).

24 When the anatomically correct dolls were brought in, Sally was guided as to how she should proceed. It was Terry who suggested that Sally start taking off the dolls' clothes (273-4) instead of waiting to see if Sally did so without being prompted. Hence, although Sally clearly demonstrated copulation with the dolls as props (after refusing to do so at first), data do exist that nonabused children may also play with the dolls in a suggestive and sexual manner (Ceci & Bruck 1993a). Moreover, since Sally had already been exposed to similar dolls and a children's book explaining male and female body parts, it is difficult to isolate the root source of her "knowledge", which could have come from her previous encounter with anatomically correct dolls, or the children's book explaining sex, or television, or her being a victim of sexual abuse. This provides the reasonable doubt to Mike's defense.

Undefined Terminology

25 Lastly, the issue of terminology can also be raised regarding how Terry used the word "touch". MacFarlane and Krebs (1986) point out that young children may often understand the act of touching as involving only hands and fingers. Given this, it becomes uncertain whether Sally really understood the question in (530-3), for contact does not necessarily always have to do with hands. Thus, Sally may have said that no one had ever touched her private parts, but since she was not asked if anything else was done to her parts (kissed, licked, etc.), the information is incomplete.

TYPES OF QUESTIONS ASKED

Open-ended versus Yes-No Questions

26 The flow of the interview reveals a shift in the type of questions that Terry asks. She starts off with open-ended questions which contextualize the discourse for her and Sally, and orient us to the case. Thus, the first wave of questions had to do with the people in Sally's environment, their relationship to her, Sally's whereabouts and actions and those of the people around her. All this served to "set the stage", so to speak, of the "crime".

27 The next wave of open-ended questions served as a bridge between the first set which established the setting, and the set of yes-no questions that followed which dealt more specifically with details about the alleged abuse. This second set of open-ended questions represented Terry's attempt to determine or confirm the extent of Sally's knowledge about body parts, and this gradually developed into more explicit questions about what supposedly happened.

28 However, instead of Terry eliciting details about the abuse through open-ended questions or free recall, yes-no questions dominated the final and crucial part of the interview. This indicated that instead of data gathering, the interviewer was actually confirming her hypotheses about the case.

Loaded, Suggestive and Leading Questions

29 Granted that Sally was not always suggestible, there were still numerous instances when she did succumb to Terry's suggestive questioning. When Terry posed the question "When was the first time he made you suck his penis" (181), Sally first says, "I don't know". But when Terry suggests "Was it last summer", Sally agrees. But this is as far as Sally goes into being suggestible; she does not claim to remember the exact month in the summer that it happened. But note how Terry frames her question: (181) When was the *first* time...This presupposes multiple occurrences of the act in question. This presupposition is present in other questions relating to *when* the alleged abuse occurred.

Sally Portrayed as Patient

30 One also notices that Terry's questions portray Sally as "patient", (228-30) ...when it first happened to you...what did he ask you to do...he had you do this...Did he have you take off your clothes (258). Instead of asking questions that elicited retelling, like, "What happened?" or "How did you feel?" (instead of "Is that uncomfortable for you?" in 323 and "And did that hurt?" in 616) or "What did he do?" (instead of "Did he move around on top of you?" in 337), Terry asked leading questions.

Series of Questions in Descending Order of Importance

31 Finally, although Terry did ask Sally if she was threatened or made to promise not to say anything (264-5), Sally was not given the chance to reply. This is just one of the many instances where the interviewer asked a series of questions in descending order of importance (106-108), so that the child, following the recency principle, answered only the last question which may not be the most crucial.

SUPPORT FOR THE CHARGE

Lack of Embellishments

32 The strength of Sally's testimony lies not in what she says but in *what she does not say*. Her testimony does not contain embellishments. On the contrary, Sally is reluctant to go into details and the crucial information that she does give comes from unguarded pronouncements. For instance, she first feigned ignorance when asked for her word for the female sex organ (81). But later on, we discover that she does know the word "puss", although she confuses this with "penis" or "pener". Thus, she fits the

profile of victims of abuse whom Goodman describes as being reluctant to admit that something wrong happened (Goleman 1993).

Sally was not Always Swayed by Terry's Leading Questions

33 Furthermore, Sally is not always swayed by Terry's leading questions, as when she was asked whether she knew Bradley's last name (156), she replies "I don't remember". Second, when asked when was the first time that Mike made her perform fellatio (181-198), Sally maintains that she cannot remember (190, 194, 197). Third, when Terry suggests that Mike bribed her to keep quiet (455), Sally says "no". Fourth, when Sally is asked if Mike ever made her scared (441-2), she again says she was not scared. Lastly, when Terry attempts to pin down Mike for another child abuse charge involving the other kids at the daycare, Carrie, Eric and Bradley, again, Sally thwarts Terry's suggestions and claims that Mike did not do anything to the other kids (500, 505-7).

Sally Denies She Told Anybody About "What Happened"

34 There were also instances when Sally repeatedly denied that she ever told anybody about "what happened". Could it be that Sally had promised someone not to tell and therefore this promise prevented her from admitting that she did tell or that "what happened" was found out? This is in keeping with the behavior of victims.

Credible Demonstration of Copulation Using Anatomically Correct Dolls

35 Finally, the demonstration that Sally gave with the dolls of what allegedly happened does not strike one as fanciful or embellished (600-33). On the contrary, it was a straightforward re-enactment of copulation. But since, as pointed out earlier, Sally had already been exposed to children's books and interviews prior to this, we cannot ascertain how much of her demonstration is a product of first hand knowledge or coaching.

CONCLUSION

36 The analysis showed the flaws in the manner that the interview was conducted and the inconsistencies in the responses elicited. Information crucial to making a strong case against Mike had not been provided, for no clear answers were given to the following questions: (a) What was the exact nature of the event that happened? (b) When was this supposed to have occurred? How many times did it happen? (c) Where did it happen? In the daycare? Where in the daycare? (d) How did it happen? Sadly, Sally's testimony remains unclear, confused or conflicting.

37 A reconstruction of the events that allegedly transpired yields the following scenario: Mike tried to make Sally perform fellatio sometimes (178) or he asked her to do it once (434-5); Sally refused to

8

do it (438). Mike did not ask Sally to do it again (446), so Sally never actually did it (438). However, there was an instance when Sally witnessed Mike's ejaculation (438). We are then left with the question of whether or not actual penetration occurred (433), and if so, who perpetrated it. This question stems from the blood stain on Sally's bed (384-388). It also appears that this actual penetration happened only once (433). However, this sequence of events is difficult to believe.

38 Still, I am convinced that something happened to Sally. But the language of her testimony did not provide the answers to the crucial questions of the case. Her statements were full of inconsistencies and contradictions. She was vague and ambiguous in giving information that was essential to the case. This could have been the result of the manner by which the interview was conducted, which left much to be desired in terms of the quality of the questions posed. Thus, although there were points which seemed to corroborate the charge of sexual abuse, the interview per se did not prove without reasonable doubt that Mike was guilty of molesting Sally.

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TRANSCRIPT EXCERPTS

I. Inconsistencies exhibited by the child in the interview

1. Use of terminology

81 INTERVIEWER: Mm Hmm. What's this here that you go pee with?
82 CHILD: [Pause]
83 INTERVIEWER: What's that called?
84 CHILD: [Shrugs shoulders]
85 INTERVIEWER: Do you have a name for that in your house?
86 CHILD: [Shakes head no]
87 INTERVIEWER: I talk to a lot of kids who have names for that and they have
88 different names sometimes. What does your family call that?
89 CHILD: My mom doesn't call it anything.
90 INTERVIEWER: Okay you don't have a name for that, what you go pee with.
91 CHILD: [Nods head yes]

267 CHILD: He stuck his penis in my um puss.

294 CHILD: Because he has a pener.

317 CHILD: He put my mum/his penis into my pussy.

619 CHILD: Hurt my stomach, and my penis.
620 INTERVIEWER: And your, and your, your pussy. And one night you saw
621 blood. Did you tell anybody about the blood?

2. Concept of quantity

111 INTERVIEWER: ...How many floors did her (daycare sitter) house have?
112 CHILD: [Short pause] Four or three.

139 INTERVIEWER: ...How many kids went to the daycare with you?
140 CHILD: Oooh about three or five.

154 INTERVIEWER: ...How old was Bradley?
155 CHILD: Four or three

346 INTERVIEWER: Okay. Alright. And then how long did that last that first
347 time?
348 CHILD: Well. One second.

361 INTERVIEWER: On that first time, did something come out of his penis?
362 CHILD: That was the second time when that happened or the fourth.

522 INTERVIEWER: Alright. Did, did your babysitter ever come upstairs to get
523 you?
524 CHILD: [Shakes head no] No. Maybe once or twice.

565 INTERVIEWER: How long ago were you at your Grandma's when you told
566 her? Was that this year after Christmas time?
567 CHILD: I was there for two days. That must be the fifth or the sixth.
568 INTERVIEWER: Oh the fifth and sixth of March. Very good memory. And
569 did you ever tell your --
570 CHILD: -- Or either it could be the fourth and the fifth.

585 INTERVIEWER: He didn't do anything but those things. And you said that
586 how many times did he do it? How many times did you go up
587 there when he did things?
588 CHILD: [Shrugs shoulders] About ten or uh nine times.

3. Concept of time

181.INTERVIEWER: When was the first time he made you suck his penis?
182.CHILD: [Pause] I don't know. [Shaking head no]
183.INTERVIEWER: Was it last summer?
184.CHILD: Yeah. [Nods head yes]
185.INTERVIEWER: It was last summer. Okay, were you going to the daycare all
186. day long?
187.CHILD: Yeah. Sometimes.
188.INTERVIEWER: Last summer. All right. So do you remember what month that
189. was?
190.CHILD: [Shakes head no]
191.INTERVIEWER: I didn't know what, what anything was then. June? July?
192. Okay.
193.CHILD: I was only four.
194.INTERVIEWER: You didn't know. You were only four, right. Was it after
195. Easter time last year? That he suck//that he had you suck his
196. penis. Do you remember?
197.CHILD: I just can't remember.

4. Contradictory statements

146 & 472-7
146 CHILD: She got a lot of stuff from Ben too.

472.CHILD: Well, she barely got anything from from him.
473.INTERVIEWER: What do you mean? Can you tell me what you mean by that?
474.CHILD: Well, see, she/she didn't get anything like I did. She didn't
475. even know about it either.
476.INTERVIEWER: She didn't get any of what?

477.CHILD: Of like what like Ben did.

392-9
392.INTERVIEWER: Oh, okay. Did all of this happen//Where did this always
393. happen? Did it happen any other places other than in his apartment?
394.CHILD: [Shakes head no]
395. INTERVIEWER: Okay, like --
396.CHILD: -- Sometimes in his bedroom.
397.INTERVIEWER: Sometimes in his bedroom and where else? In the living
398. room?
399.CHILD: Sometimes in the bathroom too.

55-6 vs. 237-240 vs. 452-5
55 INTERVIEWER: Who are you afraid of?
56 CHILD: No one.

237-240
237 CHILD: to get a toy because I was scared of him. I just knew him
238 because I liked him, and uh --
239 INTERVIEWER: -- You were scared of who? --
240 CHILD: [Shrugs shoulders] I was just scared and um I went down to
241 get a toy from Patty's house.

452-5
451 INTERVIEWER: Okay. Alright. How did you feel? Were you scared?
452 CHILD: Not very scared.
453 INTERVIEWER: Not very scared. Okay. Alright. So he didn't scare you.
454 CHILD: No.

547-9 vs. 564
547 INTERVIEWER: I was just wondering who it was that you told the first time
548 about this. I know that you had to tell somebody --
549 CHILD: -- I didn't.

564 CHILD: I told her (mother) when I was at my Grandma's.

5. Faulty memory

115 INTERVIEWER: Okay. Now who who else//who lived in that house?
116-138 The child mentions the daycare sitter and her husband, Ben (the accused), and the sitter's housekeeper (a very old man who lived on the second floor)

209 INTERVIEWER: Who else lived up there?
210 CHILD: His (Ben's) girlfriend, I think.

II. Flaws in the manner that Interviewer conducted the interview

1. Forensic interview versus therapeutic interview

271 INTERVIEWER: Okay. I'm gonna take out the dolls. These are the dolls I
272 think your mom was talking about...

598 CHILD: I know I even got a book so I can learn in case somebody
599 else does it to me. I coulda brought it but I didn't ask my mom.

2. Presuppositions

55 INTERVIEWER: Who are you afraid of?
56 CHILD: No one.

213 INTERVIEWER: At the same time? Okay. Okay. So how did you go up to his
214 place? How would you/How would you go up there?

264 INTERVIEWER: Three or two times he did. On this first time though, he
265 told you to keep it a secret right? And then he asked you to
266 take off your clothes. And then what did he do? What did he
267 do after that?

128 INTERVIEWER: Was he a big person or a younger person?

171 INTERVIEWER: Okay. Was it another boy or girl?

318 INTERVIEWER: Okay. Okay. And could you show me how he did that? Were
319 you standing up? Or were you down, sitting down? Or were
320 you lying down?

368 INTERVIEWER: -- You were sitting down or or lying down?

417 INTERVIEWER: Okay. When was the last time? Was it before or after
418 Halloween last year?

423 INTERVIEWER: So when did he stop doing it? Before Halloween or after
424 Halloween?

3. Insufficient briefing
4. Pursuit of only one hypothesis
5. Interruptions
6. No free recall

7. Insufficient follow up

148 CHILD: My friend got a lot of that stuff from uh, Ben too.
149 INTERVIEWER: Okay. We'll talk about that in a little bit.

58 CHILD: Sometimes I'm afraid of monsters though.
59 INTERVIEWER: Okay. Who are your friends?

462 CHILD: --He (Ben) even had curly hair. It was all like this. He looked
463 just like this.
464 INTERVIEWER: He looked just like that. Okaay. Did you t--, uh, you said
465 that Carrie told you that she did it too. That he did it to her.

8. Prompting in the use of anatomically correct dolls as props

271 INTERVIEWER: Okay. I'm gonna take out the dolls. These are the dolls I
272 think your mom was talking about and they're very special dolls and I'm
273 gonna have you help me show//show me what exactly you meant. Okay, do
274 you want to start taking off the clothes? I'll have you do that.

9. Undefined terminology

530 INTERVIEWER: Okay. Alright. Has anybody else ever touched you on
531 your pussy, or your butt? Okay?
532 CHILD: [Shakes head no]
533 INTERVIEWER: No one's ever touched you on your pussy?
534 CHILD: [Shakes head no]
535 INTERVIEWER: Or on your butt?
536 CHILD: [Shakes head no]
537 INTERVIEWER: Okay. Has anybody else ever touched you on your titties, or
538. excuse me boobs, I think you're calling them, right?
539. CHILD: Yeah.
540. INTERVIEWER: Has anybody ever touched you there?
541. CHILD: Ben has.
542. INTERVIEWER: Ben has. What did he do?
543. CHILD: Well sometimes he touched 'em just like that. [Rubs her chest]
544. INTERVIEWER: With his hands, okay. Alright, alright. Well, um, I think you
did very well...

III. Type of questions asked

1. Open-ended and Yes-No Questioins
2. Loaded, suggestive and leading questions
3. The child presented as 'patient'

228 INTERVIEWER: Okay on the first time that you went up there, when it first
229 happened to you, what did you do? What did he ask you to do
230 when you first got there? The first time he had you do this?

257 INTERVIEWER: When it happened, did he have you do something? Did he
258 have you take off your clothes?

323 INTERVIEWER: Is that uncomfortable for you? Okay. That's fine. So he he
324 had you lie down. Where did you lie down?

337 INTERVIEWER: Okay, how long//Did he move around on top of you when he
338 was//when he had his penis
339 CHILD: [Nods head yes] Yeah.
340 INTERVIEWER: Okay. What was he doing with his hands when he was doing
341 that?
342 CHILD: They were around my um stomach and back.

616 INTERVIEWER: Okay. Alright. And did that hurt?
617 CHILD: [Nods head yes]

4. Series of questions asked in descending order of importance (recency principle)

105 INTERVIEWER: Now I'm going to ask you if, I know that you went to a daycare
106 and um I'm wondering if you can tell me what the daycare house looked
107 like? How many floors did the daycare house have, that you went to? Was
108 that, uh, that was, uh, was that, what was you daycare sitter's name?
109 CHILD: Patty.

IV. Support for the charge of child abuse

1. Lack of embellishments in the child's account of the alleged abuse
2. The child was not always swayed by the interviewer's leading questions

154 INTERVIEWER: ...How old is Bradley?
155 CHILD: Four or three.
156 INTERVIEWER: Four or three. Do you know his last name?
157 CHILD: [Shakes head no] I don't remember.

441 INTERVIEWER: Alright. Alright. Okay. So, did he ever make you scared
442 when you were doing this?
443 CHILD: [Shakes head no]
444 INTERVIEWER: Okay. You said you told him no the first time. Right.
445 Okay. Did you tell him no again?
446 CHILD: [Shakes head no] He never asked me again.
447 INTERVIEWER: He never asked you.
448 CHILD: [Shakes head no]

451 INTERVIEWER: Okay. Alright. How did you feel? Were you scared?
452 CHILD: Not very scared.
453 INTERVIEWER: Not very scared. Okay. Alright. So he didn't scare you.
454 CHILD: No.
455 INTERVIEWER: Not much, huh. But he told you he would buy you things.
456 CHILD: [Shakes head no]

498 INTERVIEWER: Okay. I thought you said that Ben did something to her. I was wondering.
499 Did he hurt her? Or do something else?
500 CHILD: He (Ben) didn't do anything to her (Carrie, another child from the daycare).

505 INTERVIEWER: So there were two girls and two boys. Did he do anything to
506 Bradley or Eric?
507 CHILD: No.
508 INTERVIEWER: He didn't.
509 CHILD: They were boys.

3. The child denies she ever told anybody about 'what happened'
4. Credible demonstration of copulation using the anatomically correct dolls

600 INTERVIEWER: ...And you don't, didn't want to show me
601 anything with the dolls.
602 CHILD: I could.
603 INTERVIEWER: You, to show me what Ben did to you.
604 CHILD: [Nods yes]
605 INTERVIEWER: Okay, if you'd like to. And then we'll be done.
606 CHILD: See it's like, I was laying down like this --
607 INTERVIEWER: Mm hmm.
608 CHILD: -- and Ben had his pants down about right to here.
609 INTERVIEWER: Mm hmm
610 CHILD: -- And uh, he was kneeling right here. And then he started to
611 do it like that.
612 INTERVIEWER: Okay. Alright. Did he move up and down when he was --
613 CHILD: Yeah. He went like this.
614 INTERVIEWER: Okay. And what did he do with his other hand?
615 CHILD: He, it's like this. He did it like this and he moved up and down
616 INTERVIEWER: Okay. Alright. And did that hurt?
617 CHILD: [Nods head yes]
618 INTERVIEWER: Yeah. That must have hurt.
619 CHILD: Hurt my stomach, and my penis.
620 INTERVIEWER: And your, and your, your pussy. And one night you saw
621 blood. Did you tell anybody about the blood?
622 CHILD: It was in the night.

623 INTERVIEWER: It was in the night. Did you tell anybody about that blood?
624 CHILD: [Shakes head no]
625 INTERVIEWER: You didn't.
626 CHILD: My mom knew it before me.
627 INTERVIEWER: She saw it. When, when did that happen? Was that a while
628 ago? Did she ask you about that?
629 CHILD: No she told me.
630 INTERVIEWER: Did she wonder about why it//there was blood on your sheet?
631 CHILD: [Shakes head no] She was at work then, I think.
632 INTERVIEWER: Oh, okay. Alright. Well you did a really good um job and I
632 think we're finished for now so what we're gonna do is go
633 back and talk to your mom. I'm gonna do that.

V. My reconstruction of 'what happened' based on the child's testimony

1. Ben tried to make the child perform fellatio sometimes
178 CHILD: [Pause] See. Sometimes he//he made me suck his penis.

OR he asked her to do it once
433 CHILD: He only did//make me do it one time.
434 INTERVIEWER: He only made you do what?
435 CHILD: Suck his penis once.

2. The child refused so she never actually did it but she had seen Ben ejaculate.
436 INTERVIEWER: Okay, alright. And you said that something came out of it.
437 His penis. Okay, was that before or after you sucked his penis?
438 CHILD: Before. I never sucked his penis. The white stuff came out.
439 INTERVIEWER: Okay.
440 CHILD: Kept wiping it with a towel.

3. Ben did not ask the child to do it again
446 CHILD: [Shakes head no] He never asked me again.

Question: How do we account for the bloody sheets
383 CHILD: [Shakes head no] But, uh, one, one night when he. That night
384 when he uh, put, put his penis in my uh pussy, uh, he um//see, there
385 was blood coming out of my pussy.

which seem to point out that vaginal penetration occurred at least once?
433 CHILD: He only did//make me do it one time.